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FOIP FOLIO

SASKATCHEWAN

January 2007

INFORMATION ACCESS AND PRIVACY CERTIFICATE

Congratulations to **Diane Aldridge**, our senior Portfolio Officer, who has successfully completed the 5 course Information Access and Protection of Privacy certificate program (IAPP) offered by the University of Alberta, Extension. Our other two Portfolio Officers are also working on their IAPP certificates. We understand that more than 16 Saskatchewan residents are now enrolled in Canada's only online access and privacy university program. This includes privacy officers from a number of Saskatchewan's most prominent public bodies. For more information on the IAPP program please visit http://www.govsource.net/programs/iapp/index.nclk.

NEW ACCESS AND PRIVACY FACE

On February 1, 2007, **Clint Krismer** will start employment as the fourth Portfolio Officer in the OIPC. Clint has an extensive history in this province with computer technology. Most recently he served as the Director of Information Technology at the First Nations University of Canada. Previous to that Clint spent eight years as the Manager of Information Systems with the Saskatchewan Tourism Authority.

VISIT BY PRIVACY COMMISSIONER'S GENERAL COUNSEL

Patricia Kosseim, Legal Counsel to the Privacy Commissioner of Canada, spent January 17th in Regina and January 18th in Saskatoon. She spoke to almost 40 lawyers and privacy/access professionals in Regina and 23 in Saskatoon at luncheons sponsored by the Privacy and Access Law Section of the Canadian Bar Association (Saskatchewan). Patricia also met with editorial boards for the Leader-Post and Star Phoenix. Her presentations included the early experience with the federal *Personal Information Protection and Electronic Documents Act* (PIPEDA) and the twenty-four year old federal *Privacy Act*. She highlighted a number of investigations done by federal Commissioner, Jennifer Stoddart, and some recent court decisions.

APRIL WORKSHOPS TO BE OFFERED IN CONJUNCTION WITH REGINA CONFERENCES

Tuesday, April 17, 2007 – workshops:

Morning Workshops 9:00am – 12:00pm

Workshop A (Option 1)

Examining Information Governance for a Standard EHR Framework

The conference organizers are pursuing a speaker from Canada Health Infoway. The general idea for this session is to offer a high level workshop split between privacy & security architecture and information governance within the context of EHRs. The alternative would be to either do a detailed version of just the P&S Architecture, or replace the P&S piece with a piece on IT governance.

Workshop B (Option 2)

How to be a FOIP/ LAFOIP Coordinator

This is a beginner level workshop focusing on organizational considerations for establishing and maintaining an access and privacy program in a government institution or local authority. This will be of most interest to those who are new to the area and are struggling to know where to begin, where to turn for help, etc.

Afternoon Workshops 1:00pm – 4:00pm

Workshop C (Option 1)

Conducting Privacy Impact Assessments (PIAs)

This workshop will provide you with an overview of the PIA process and will provide participants with hands-on experience in conducting a PIA. The objectives of this workshop are to:

- Understand the PIA process
- Identify when PIAs are required
- Identify who should be involved in the PIA process and discuss strategies for gaining and maintaining organizational support for your PIA program
- Conduct a personal information flow analysis and chart the workflow
- Conduct a privacy risk analysis
- Choose a risk mitigation plan
- Chart next steps

APRIL WORKSHOPS TO BE OFFERED IN CONJUNCTION WITH REGINA CONFERENCES (CONT'D)

Tuesday, April 17, 2007 – workshops: (cont'd)

Workshop C (Option 1) (cont'd)

Conducting Privacy Impact Assessments (PIAs) (cont'd)

The workshop will follow an interactive, non-legal approach to demystifying the PIA process. PIAs are required by policy for public sector organizations in several jurisdictions. The PIA is fast becoming a best-practice tool for both the public and private sector in assessing risks to personal information management. Join us for a great session that will empower you to implement a PIA policy in your organization.

Workshop D (Option 2)

In the Door, Out the Door: The A to Z's of responding to an access request

This workshop will focus on the basic procedures used to process an access request - everything from creating a log to track progress, to developing a cost estimate, to severing the records, to seeking the appropriate approvals before the records are disclosed. This workshop will be beneficial to anyone new to the world of processing access requests, but may also be a helpful refresher for the experienced coordinator.

To register for these workshops, visit our home page, www.oipc.sk.ca and follow the links to the Prairie Health Information Privacy Day or Saskatchewan Access and Privacy Conference websites.

OIPC BUSINESS PLAN 2006-2009

In the interests of transparency and accountability, our office has revised and updated its Business Plan. The new Business Plan for 2006-2009 includes the same five Core Businesses, but revised goals (12) and revised key performance measures (48). The new Business Plan also reflects a shift from the past concentration on education and awareness-raising to complaint resolution and advice and commentary to public bodies and health information trustees. The revised Business Plan is now available at our website, www.oipc.sk.ca, under the What's New tab.

Ring in the New Year!

DEALING WITH PROCEDURAL PROBLEMS AT THE REVIEW STAGE

Our office is concerned that much of the backlog in processing Requests for Review is attributable to government institutions, local authorities, trustees who do not understand what FOIP, LA FOIP, and HIPA require in responding to an access request. This includes not responding within 30 days, not providing the kind of notice required, and providing an inadequate fee estimate. For this reason our office is developing a new policy to expedite the processing of those kinds of problems to minimize the current prejudice to applicants. This will provide a prompt intervention to resolve procedural defects in the public body's response to an applicant. Our response may borrow from new procedures announced last October by the British Columbia Information and Privacy Commissioner to deal with deemed refusals.

A major focus of our office for the last three years has been to assist in building capacity in public sector bodies. Since the fall of 2005 advice and support has also been available from the Access and Privacy Branch of Saskatchewan Justice. Nonetheless, it appears that a number of bodies have not yet appointed a senior FOIP Coordinator, ensured that the FOIP Coordinator has the required training and have not established an appropriate procedure to deal with access requests in a timely fashion. Since the Supreme Court of Canada has declared that these laws are of special importance, and our legislation is more than 14 years old, we have determined that more rigour is required to achieve the purpose of these access and privacy laws. We will consult with the Access and Privacy Branch in developing the new protocol. If you or your organization have suggestions to address procedural defects in the response to applicants' access requests, we would be pleased to hear from you.

CREATION OF NORTHERN SASKATCHEWAN PRIVACY AND ACCESS LAW SECTION

Congratulations to **Neal Caldwell** (McDougall Gauley), **Mickey Woodard** (MacPherson Leslie Tyerman) and **Kaylea Dunn** (McKercher) of Saskatoon who are planning a September 2007 launch of the Privacy and Access Law (North) Section of the Canadian Bar Association (Saskatchewan). Over the last year we have had a single section in the province that has alternated meetings between Regina and Saskatoon. The creation of the new Saskatoon based section will result in considerably more opportunities for Saskatchewan lawyers to keep up to date on this fast changing area of law. If you have suggestions for topics for the new section please contact Neal, Mickey or Kaylea. To join the section please email lorrainec@cba.org or call 1-800-424-8288.

ANONYMOUS COMPLAINTS

In dealing with complaints under Part IV of FOIP, LA FOIP or section 52 of HIPA, we occasionally receive a request from the complainant to not disclose their identity to the government institution, local authority or trustee. This may be due to a number of reasons. An example may be that the complainant works for the organization in question or is in a particularly close relationship with that organization and does not wish to prejudice themselves. In this regard, it is significant that there is no 'whistleblower' protection for complainants in any of these three Saskatchewan laws. Our process is to determine whether the complaint can be adequately investigated without disclosing the complainant's identity. Sometimes that is not possible; particularly when the complaint relates not to some generalized activity or program of an organization but rather a specific collection, use or disclosure of the complainant's personal information or personal health information. In such cases, we typically explain to the complainant that we cannot undertake the investigation without disclosing their identity. If they don't wish us to proceed, we proceed to close the file.

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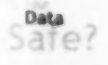

Many Canadians learned this month that when he/she provided personal information in order to receive a product or service, the data retained in databases by certain companies was most likely compromised. The companies named in recent news articles include Winners and HomeSense, CIBC, and Club Monaco. Under the applicable privacy legislation, these companies have no legal obligation to contact customers and inform these individuals that these breaches occurred. Fortunately, some companies did provide notification, however, not all in as timely a fashion as would be ideal.

In the case of TJX Cos, the parent company of Winners and HomeSense, the company did not reveal that computer hackers had stolen customer information from its databases until January 18, 2007.[1] Though it appears the company discovered the breach back in December 2006,[2] it is suggested that the security breach may have begun as early as May 2006.[3] As the company operates stores across North America (27 Canadian) and abroad, millions of customers could potentially be impacted.

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[1] Available at http://www.cbc.ca/news/background/identity-theft/corporate-security.html

[2] AFX via E-Commerce Times, We Didn't Tell You For Your Own Good, January 30, 2007, available online: http://www.ecommercetimes.com.

[3] Dana Flavelle, Tara Perkins, Irate card users left in dark, The Toronto Star, January 20, 2007, available at http://ww.thestar.com/Business/article/173131

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CIBC then announced that it lost a file in transit between its offices containing confidential information of almost a half-million Talvest Mutual Funds clients.[4]

It also appears that there may be a RCMP investigation underway to determine if Club Monaco customer data was also compromised.[5] In a recent statement, the company spokesperson stated that *"the data under investigation doesn't include personal information such as names, addresses and phone numbers."*[6] However, it appears that security breach may involve customers' credit card numbers.

If you are a client/customer of these organizations, it is advisable to carefully monitor your credit card bills, bank statements and credit reports and report anything suspicious or out of the ordinary. For more information, you will need to contact the federal office as all three companies named are under the jurisdiction of the federal Privacy Commissioner, not our office.

FUTURE EVENTS

February 1, 2007 – *What You Absolutely Need to Know About Information Destruction Policy: Risk Management and Compliance Fundamentals*, Toronto, Ontario (visit www.naidcanada.org/conference/seminar2007 for details)

February 21, 2007 – *Assessing Current Privacy Issues*, Ottawa, Ontario (visit www.rileyis.com/seminars)

February 22-23, 2007 – *Privacy Compliance – Practical Solutions for Meeting your Obligations* – Calgary, Alberta (visit www.CanadianInstitute.com for details)

March 12-13, 2007 – *Electronic Health and Medical Records* – Four Seasons Hotel, Vancouver, British Columbia (visit www.insightinfo.com for details)

April 16, 2007 – *Prairie Health Information Privacy Day, 2007* – Delta Regina, Regina, Saskatchewan (visit www.verney.ca/phipd2007 for details)

April 17, 2007 – *Prairie Health Information Privacy Day, 2007 – Workshops* – Delta Regina, Regina, Saskatchewan (visit www.verney.ca/phipd2007 for details)

April 18, 2007 - *Saskatchewan Access & Privacy Conference 2007 – Exploring Saskatchewan's Freedom of Information and Protection of Privacy Legislation* – Delta Regina, Regina, Saskatchewan (visit www./verney.ca/sapc2007 for details)

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[4] Maria Babbage, Security warning from Club Monaco, The Canadian Press, January 27, 2007, available at http://hamiltonspectator.com

[5] Available at http://calsun.canoe.ca/News/National/2007/01/27/3459924-sun.html

[6] *Supra*, note 4

FUTURE EVENTS (CONT'D)

April 26-27, 2007 – *Anti-Money Laundering* – The Sutton Place Hotel, Toronto, Ontario (visit www.CanadianInstitute.com for details)

May 1-4, 2007 – *17th Conference on Computers, Freedom & Privacy* – Montreal, Quebec (visit www.cfp2007.org/live for details)

May 30-31, 2007 – *Privacy Compliance – Meeting Your Obligations and Challenges* – Toronto, Ontario (contact 1-877-927-7936 for details)

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